

1 ter." But if for some reason Mr. Stewart cannot tes-  
2 tify to this, we would have an objection.

3 JUDGE STIRMER: All right.

4 MS. LADEN: In paragraph 16, it says, "Mrs.  
5 Smith, however, kept badgering me, criticizing what I  
6 was doing, telling me that that doesn't look better at  
7 all." And I would object to that as hearsay. We are  
8 offering the testimony of Mrs. Smith.

9 And later in that paragraph where it says,  
10 "Mrs. Smith kept complaining that she could not get  
11 Channel 8 very well."

12 JUDGE STIRMER: I'll overrule that objection  
13 since Mrs. Smith will be a witness and Mr. Lampe, Lampe  
14 can testify as to what he recalls her saying.

15 MS. LADEN: The middle of page 10, it says,  
16 "The antenna lead wire, however, was not hooked up  
17 properly, which is the reason she wasn't receiving very  
18 good reception." I would object to that last "which is  
19 the reason" because it has not been shown that the  
20 witness is competent to make that conclusion.

21 MR. DUNNE: Your Honor, the witness --

22 JUDGE STIRMER: That's -- I'll overrule that.  
23 That's his opinion. You, you can cross-examine him on  
24 that.

25 MS. LADEN: At page 11, Your Honor, near the

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 top, it says, "The snow mentioned on Channels 6, 8, and  
2 15..." and ending with the word "oriented." Again, I  
3 believe that, that competency of the witness to testify  
4 to this has not been shown. Again, it talks about the  
5 co-channel interference.

6 MR. DUNNE: Well, again, Your Honor, this is  
7 a guy who is in the business of curing these sorts of  
8 problems --

9 MS. LADEN: Your Honor --

10 MR. DUNNE: -- doing it for 13 years. He  
11 ought to know what different interferences are so he  
12 can fix it.

13 JUDGE STIRMER: Well, this is similar to what  
14 I had reserved ruling on earlier and I'll reserve  
15 ruling on this until I get further from Mr. Lampe.

16 MS. LADEN: On page 12, near the top, it  
17 says, "The beat pattern on Channel 12 is because a 7  
18 MHz satellite IF frequency will interfere with Channel  
19 12 reception." Again I object because the witness is  
20 not competent to testify.

21 MR. DUNNE: This is a man who installs satel-  
22 lite systems, Your Honor. Presumptively he knows what  
23 interferes with them.

24 JUDGE STIRMER: What is the beat pattern? I  
25 don't understand what that is?

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 MR. DUNNE: Excuse me, Your Honor?

2 JUDGE STIRMER: I don't understand the sen-  
3 tence. What is a beat pattern?

4 MR. DUNNE: Evidently there's a, there's a  
5 technical taboo, an IF beat taboo, that occasionally  
6 gets fouled up on Channel 12 because the frequency is  
7 tied in with the satellite IF frequency falls on, on --  
8 pretty close to that, that channel.

9 JUDGE STIRMER: Well, I, again, don't know  
10 Mr. Lampe's qualifications to testify on this, so I am  
11 going to have to reserve judgment. Let me ask the  
12 Bureau whether they intend to ask a Bureau engineer to  
13 testify with respect to these opinion things expressed  
14 in this exhibit.

15 MS. LADEN: Your Honor, since they have come  
16 in, we, we would like to do that on rebuttal. They're  
17 not addressed in our exhibits, but we, we would like to  
18 address them on rebuttal.

19 JUDGE STIRMER: Very well.

20 MS. LADEN: Your Honor, at paragraph 17 --  
21 no, Your Honor. I'm sorry. I misspoke. At the end of  
22 paragraph 17, "The continuing problems with the recep-  
23 tion that I observed was not the result of interference  
24 from KOKS." And the next sentence after that, "The  
25 snow and rolling lines I observed..." The first sen-

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 tence that the -- the two sentences I object because  
2 the witness is not competent to testify as to this.  
3 And the first sentence, as far as interference not  
4 being the result of interference from KOKS, well, Your  
5 Honor, that's, that's the -- one of the conclusions you  
6 will be making.

7 JUDGE STIRMER: I, I'm going to reserve  
8 ruling on that until I hear from Mr. Lampe and have him  
9 explain exactly what he means by this and his exper-  
10 ience and his expertise to testify to these matters.

11 With respect to the last sentence, I believe  
12 the witness can testify to that since this is something  
13 that he heard.

14 MR. DUNNE: That's a direct observation, Your  
15 Honor.

16 MS. LADEN: Your Honor, we did -- just, just  
17 a moment, Your Honor. We did not object to the last  
18 sentence. My objection ended with the word "Arkansas."

19 JUDGE STIRMER: Very well.

20 MS. LADEN: At paragraph 18, the third sen-  
21 tence, "If you get a marginal signal anyway, hooking up  
22 a VCR reduces the signal even more." Same objection,  
23 Your Honor, on the basis of competence.

24 JUDGE STIRMER: Where is that?

25 MS. LADEN: At the, at the bottom of page 12,

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 paragraph 18. "If you get a marginal signal anyway,  
2 hooking up a VCR reduces the signal even more."

3 JUDGE STIRMER: All right. That's another  
4 one we'll reserve ruling.

5 MS. LADEN: Similarly, Your Honor, at the top  
6 of page 13, "Channels 8, 12, 15, and 23 had bad snow."  
7 I have no objection to that statement. But the next  
8 phrase, "but the interference was not FM blanketing."  
9 And the next sentence, "Channel 6 was receiving blan-  
10 keting interference." There's no basis given here for  
11 that conclusion and there's no indication that the  
12 witness is competent to, to reach that conclusion.

13 MR. DUNNE: He's reporting what he reser--  
14 observed, Your Honor, and earlier in the exhibit he  
15 told -- expressed what FM blanketing interference  
16 looked like on a TV set, and that wasn't it. And he  
17 was reporting --

18 JUDGE STIRMER: Well --

19 MR. DUNNE: -- an observation.

20 JUDGE STIRMER: I can say some additional  
21 rulings on, on this specific exhibit by making this  
22 general ruling: I am not going to accept Mr. Lampe's  
23 characterization of what was caused by blanketing until  
24 I hear from Mr. Lampe to establish to my satisfaction  
25 that he has the expertise and knowledge to testify in

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 the manner that he's testifying. And I would certainly  
2 urge the Bureau to have their engineer available to  
3 testify if whatever Mr. Lampe testifies to is not in  
4 their judgment correct from an engineering standpoint.

5 MS. LADEN: Your Honor, did you want me to  
6 point out the rest of the phrases?

7 JUDGE STIRMER: Yes, you can. But I just  
8 wanted to make that general statement because it ap-  
9 pears to me from the objections that you are raising it  
10 goes to the question of this witness's ability to  
11 testify as to what, what is the -- what blanketing  
12 interference -- or whether or not blanketing interfe-  
13 rence was a problem that these people in Poplar Bluff  
14 were experiencing with respect to their television  
15 reception. And Mr. Lampe takes the position, apparent-  
16 ly, that some of this or all of it was not attributable  
17 to blanketing, that there were other factors that were  
18 causing the problems. And I want to hear from him  
19 before I rule on the admissibility of this. But,  
20 again, if you have a witness available who has enginee-  
21 ring expertise which, which is not in accord with Mr.  
22 Lampe's apparent opinions, then I want to hear from him  
23 too.

24 All right. Would you continue to point out  
25 these other areas?

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1 MS. LADEN: Yes, Your Honor. At the ad-- at  
2 the end of page 13, the phrase, "but the interference  
3 was somehow related to the booster they had installed."

4 JUDGE STIRMER: Very well. We'll reserve  
5 ruling on that too.

6 MS. LADEN: And then no objection to the next  
7 sentence. But the sentence after that, "The snow in  
8 the picture was not, however, the result of FM blan-  
9 keting interference but the result of poor signal  
10 strength and trying to run two tv sets."

11 JUDGE STIRMER: All right.

12 MS. LADEN: The bottom of --

13 JUDGE STIRMER: Let -- again, let me say that  
14 these are opinions that, that this witness is expres-  
15 sing. That's based upon his expertise, whatever that  
16 might be, which we'll find out in greater detail when  
17 he testifies. But as a general rule, these are his  
18 opinions. And his opinion may be correct and it may be  
19 incorrect. And I think if, if you have evidence of a  
20 engineering nature that will contradict these opinions,  
21 then I think you should be prepared to offer it.

22 MS. LADEN: Your Honor, at the bottom of page  
23 14, paragraph 23, "The snow was not the result of FM  
24 blanketing interference but poor reception." Same  
25 objection.

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 JUDGE STIRMER: Is it your position, Mr.  
2 Dunne, that any time snow appeared on the reception of  
3 these individuals tv sets that that was in no way a  
4 blanketing FM problem that caused it?

5 MR. DUNNE: No, Your Honor. That's not our  
6 position. Our position is with respect to these speci-  
7 fic homes that he visited and in which he worked on the  
8 tv set, that the interference that he observed on the  
9 tv set was not blanketing interference.

10 JUDGE STIRMER: Well, but it says here,  
11 "There was snow on Channel 6, but again the snow was  
12 not the result of FM blanketing interference but poor  
13 reception." Now, these -- did these individuals have  
14 decent receptions before KOKS went on the air?

15 MR. DUNNE: Your Honor, that we don't know.  
16 There is evidence in the record from Mr. Lampe and  
17 other people that say Channel 6 is -- this is far  
18 beyond their grade B contour, that the signal was  
19 marginal anyway. That's Mr. Lampe's testimony. That  
20 the signal was not there in particularly good strength.  
21 You have some, some -- in further exhibits, we have  
22 measurements from the FCC that show that the signal  
23 strength was not very, very good in -- for Channel 6 in  
24 Poplar Bluff, that there is, you know -- certainly,  
25 it's a reasonable opinion to say that they weren't

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1 getting Channel 6 because Channel 6 gets poor recep-  
2 tion.

3 JUDGE STIRMER: All right. This is Mr.  
4 Lampe's, again, opinion. He can express that opinion.  
5 The question is whether or not it's a valid opinion,  
6 one that I'm prepared to accept or that the Commission  
7 is prepared to accept, and that will depend upon his  
8 examination to determine his qualifications to state  
9 these opinions and the validity of those opinions when  
10 taken together with any contrary evidence in the re-  
11 cord. But, again, he can state his opinion. It's just  
12 a question of the weight to be accorded his testimony,  
13 and that will depend upon the cross-examination.

14 MS. LADEN: Your Honor, did you want --  
15 there's only one other statement in that category.

16 JUDGE STIRMER: Yeah. You might as well  
17 identify it.

18 MS. LADEN: Yeah. At the bottom of paragraph  
19 24, "The poor reception that I observed on Mr.  
20 Crutchfield's set..." and continuing till the end of  
21 that paragraph.

22 JUDGE STIRMER: All right. That again is --  
23 that's his opinion, and, again, you can cross-examine  
24 him on his opinion as well as these other things that I  
25 reserved judgment on. In all likelihood, I'm going to

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 accept that testimony and it's just a question of the  
2 weight to be accorded it.

3 MS. LADEN: On page 16, in the middle of that  
4 page, it says, "I called Harris, the transmitter manu-  
5 facturer, while Mr. Gusick was there." We have no  
6 objection to that part of the sentence. But we object  
7 to where it says, "And he heard me confirm with Harris  
8 that the plate current meter reading might be lower  
9 than the actual current if the system had been hit by a  
10 lightning strike." We object on grounds of hearsay.

11 JUDGE STIRMER: Now, is this offered for the  
12 truth or the state of mind of the witness?

13 MR. DUNNE: It's the state of mind of the  
14 witness, Your Honor.

15 JUDGE STIRMER: All right. Then I'll accept  
16 it --

17 MR. DUNNE: You know --

18 JUDGE STIRMER: -- for that purpose.

19 MR. DUNNE: We're not -- you know.

20 JUDGE STIRMER: All right.

21 MR. DUNNE: All he's saying is that Mr.  
22 Gusick heard certain facts because Mr. Lampe said them.

23 MS. LADEN: All right. Your Honor --

24 JUDGE STIRMER: I'm, I'm, I'm not accepting  
25 this for the purpose that Mr. Gusick heard him confirm

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 | whatever Harris told him. I'm just accepting it for  
2 | the state of mind of the witness that Harris told him  
3 | certain things. Is that understood?

4 | MR. DUNNE: Okay. Your Honor --

5 | JUDGE STIRMER: Because I have no way of  
6 | knowing that Mr. Gusick was in a position to hear him  
7 | confirm or not confirm.

8 | MR. DUNNE: Okay.

9 | JUDGE STIRMER: All right?

10 | MS. LADEN: At, at the bottom of page 16, we  
11 | object to the sentence, "KOKS did not run over or under  
12 | power contrary to the rules." That's a legal conclu-  
13 | sion.

14 | JUDGE STIRMER: Do you want to be heard on  
15 | that?

16 | MR. DUNNE: Your Honor, this is the engineer  
17 | who was responsible for, for repairing the transmitter  
18 | and the equipment. That's his opinion on what, what he  
19 | did.

20 | JUDGE STIRMER: Well, you know, he's making  
21 | statements in here which if they're proven to be unre-  
22 | liable it just undermines a great deal of his testi-  
23 | mony, and I don't know how he could make a statement  
24 | such as this. Was he at the station constantly?

25 | MR. DUNNE: No, he wasn't, Your Honor.

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 JUDGE STIRMER: Well, how can he make a  
2 statement like that?

3 MR. DUNNE: Because he checked once a month.  
4 Whenever he checked it was okay.

5 JUDGE STIRMER: Well, it was, apparently,  
6 some deficiency in the, in, in the readings for an  
7 extended period of time, wasn't there?

8 MR. DUNNE: Yes, there was, Your Honor.

9 JUDGE STIRMER: So, he didn't know which was  
10 right or which was wrong, did he?

11 MR. DUNNE: Your Honor, what he is testifying  
12 to is that there is one thing that is right, and that's  
13 at the transmitter side, which he checked, and that was  
14 okay. The only place that there was a reading that was  
15 wrong was at the studio site in one of the meters.  
16 Okay? And the, the fact that the only way that the  
17 meter affected the, the actual reading was that he went  
18 back and did a calculation by the indirect method.  
19 What this testimony says is that the power reading at  
20 the transmitter site and at the studio site was incor-  
21 rect. There was only one thing that was wrong. It was  
22 a meter that was broken.

23 JUDGE STIRMER: Well.

24 MR. DUNNE: And it -- you know, he confir-  
25 med --

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 JUDGE STIRMER: All right. I'll let --

2 MR. DUNNE: -- this fact and, and it's -- you  
3 know, it's part of the -- submitted the part of the  
4 manual that showed --

5 JUDGE STIRMER: All right.

6 MR. DUNNE: -- although it doesn't show very  
7 well.

8 JUDGE STIRMER: I'll, I'll permit that state-  
9 ment to remain. You can cross-examine the witness on  
10 that.

11 MS. LADEN: We have no further objections to  
12 Exhibit 1, Your Honor.

13 JUDGE STIRMER: All right. Those --

14 MR. DUNNE: Your Honor, may I make the -- I  
15 notice in my copy of Exhibit 1 Attachment B, the equip-  
16 ment manual page and letter to station. The paragraph  
17 that is meant to be highlighted, which on my copies was  
18 highlighted and readable, is basically unreadable. Is  
19 that the case --

20 MS. LADEN: Yes.

21 MR. DUNNE: -- in your copies?

22 JUDGE STIRMER: Is that the one -- which --  
23 I've got one --

24 MR. DUNNE: It would be the last -- second to  
25 the last page on Exhibit, Exhibit 1.

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Court Reporting Depositions  
D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 JUDGE STIRMER: All right.

2 MR. DUNNE: Attachment B.

3 JUDGE STIRMER: Which --

4 MR. DUNNE: There's a paragraph -- one, two,  
5 three, four -- the fifth paragraph down is meant to be  
6 highlighted. Apparently, it's blocked out --

7 JUDGE STIRMER: It's blocked out on mine too  
8 and I didn't know what --

9 MR. DUNNE: Okay.

10 JUDGE STIRMER: -- well, this whole page was  
11 supposed to show --

12 MR. DUNNE: Well, what it shows is that  
13 there's a manual. In the, the manual it says that the  
14 meter can go out --

15 JUDGE STIRMER: All right. Well, where is --

16 MR. DUNNE: -- and it won't affect the rea-  
17 dings.

18 JUDGE STIRMER: Where is this --

19 MR. DUNNE: -- and that's the highlighted  
20 paragraph.

21 JUDGE STIRMER: Where is this paragraph? I  
22 don't have it.

23 MS. LADEN: Attachment B.

24 MR. DUNNE: Your Honor, Attachment B, equip-  
25 ment manual page and letter to station. It's attached

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 | to Mr. Lampe's exhibit.

2 |           JUDGE STIRMER: I understand that. But my  
3 | portion is blacked out. That I --

4 |           MR. DUNNE: Okay. That was the question I  
5 | was asking you. It is not blacked out on some copies  
6 | and some it is.

7 |           JUDGE STIRMER: Well, I --

8 |           MR. DUNNE: So, I need to provide you and  
9 | everyone else with copies that are readable.

10 |           JUDGE STIRMER: Okay.

11 |           MR. DUNNE: Now, evidently it was underlined  
12 | to make it more -- to highlight it, and the highligh-  
13 | ting wiped, wiped it out.

14 |           JUDGE STIRMER: Okay. Are you going to  
15 | provide us with that?

16 |           MR. DUNNE: Yes, sir. And I will do that  
17 | before you leave for Poplar Bluff.

18 |           JUDGE STIRMER: Okay. All right.

19 |           MR. DUNNE: Well, Your Honor, can I go off  
20 | the record for just a moment?

21 |           JUDGE STIRMER: All right. Off the record.

22 |           (Off the record.)

23 |           (On the record.)

24 |           JUDGE STIRMER: All right. Now, with respect  
25 | to this exhibit, I have -- I am going to receive the

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 exhibit as stating mostly Mr. Lampe's opinions with  
2 respect to certain blanketing problems and whether that  
3 was the cause of certain of the reception difficulties  
4 that he experienced in the services that he performed  
5 for the station. But, again, as I said earlier, I want  
6 to reiterate that the validity of that testimony and  
7 whether -- and the weight to be accorded to that testi-  
8 mony will depend upon his cross-examination and the  
9 other evidence that's introduced into the record.

10 All right. I will receive Exhibit No. 1 with  
11 the caveat that I've just stated.

12 (Whereupon, the document  
13 marked for identification as  
14 KOKS Exhibit No. 1 was  
15 received into evidence.)

16 MR. DUNNE: Thank you, Your Honor.

17 JUDGE STIRMER: Are you offering Exhibit 2  
18 now, Mr. --

19 MR. DUNNE: Yes, sir. I am.

20 JUDGE STIRMER: Very well. Are there any --

21 MR. DUNNE: Your Honor, I believe at the  
22 beginning I offered all seven exhibits. Should I do  
23 both -- so again, sir --

24 JUDGE STIRMER: Yeah, I think we should, and  
25 then I'll rule on each one individually.

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 MR. DUNNE: Okay.

2 JUDGE STIRMER: All right.

3 MR. DUNNE: Calvary would now offer Exhibit  
4 No. 2 into evidence, Your Honor.

5 JUDGE STIRMER: All right. Are there any  
6 objections?

7 MS. LADEN: Yes, Your Honor. On page 2,  
8 paragraph 3, the first half of the paragraph where it  
9 beings, "Our tower erector..." and ends with the  
10 phrase, "its visibility is low." We object because  
11 that is hearsay.

12 JUDGE STIRMER: Now, what's the basis of this  
13 objection?

14 MS. LADEN: Hearsay, Your Honor. I -- it's  
15 being offered for the truth of the matter, that the  
16 person who delivered the tower told Mrs. Stewart that a  
17 special tower lighting kit was needed and the reasons  
18 that they were told it was safer. I, I don't object if  
19 it's coming in for their belief or Mrs. Stewart's state  
20 of mind, but I object to this being offered for the  
21 truth of the matter, that it's safer or whether it was  
22 needed.

23 JUDGE STIRMER: What is the purpose of this?

24 MR. DUNNE: The state of mind is fine, Your  
25 Honor.

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 JUDGE STIRMER: All right. It'll be received  
2 for the state of mind only.

3 MS. LADEN: Also, Your Honor, I missed, I  
4 missed a mark that I had here earlier, paragraph 2.  
5 And I, I don't necessarily have an objection, but I'd  
6 like to know the purpose for the middle of that para-  
7 graph where it describes a conversation with Mrs.  
8 Smith. "I told her that we were putting up a tower.  
9 Mrs. Smith told me you may put it up but I will take it  
10 down." I don't understand the purpose that this is  
11 being offered.

12 JUDGE STIRMER: Well, I would assume it's to  
13 show some hostility on the part of Mrs. Smith. Is that  
14 right?

15 MR. DUNNE: Thank you, Your Honor. I note  
16 prior to the initiation of any broadcast on KOKS.

17 MS. LADEN: At the bottom of page 3, Your  
18 Honor, paragraph 5. "We also received in very short  
19 order over 250 complaints." I don't object to that  
20 part of the sentence. But I object to the part which  
21 says, "which were more complaints than anyone should  
22 have had to deal with." I believe that's a legal  
23 conclusion.

24 JUDGE STIRMER: Yeah, I don't understand  
25 what, what purpose is that.

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 MR. DUNNE: You can strike it, Your Honor.

2 That's --

3 JUDGE STIRMER: All right. Let's strike that  
4 phrase. I don't know what can --

5 MR. DUNNE: The man's ticked off is what he's  
6 trying to, to say.

7 MS. LADEN: At page 7, in the middle of that  
8 page it says, "He also checked out our other equipment  
9 and we were told there were no problems." And it goes  
10 on for several sentences until it ends with the word  
11 "4-bay" -- the words "4-bay antenna." I have two  
12 objections, one, that it's hearsay. I believe it's  
13 being offered for the truth of the fact that there were  
14 no problems with the antenna. And the second objection  
15 that I have is that we have stipulated, Your Honor, as  
16 to the installation of the antenna.

17 JUDGE STIRMER: You mean the 4-- that you  
18 should change from the 4-bay to the 7-bay?

19 MS. LADEN: That's correct, Your Honor. So,  
20 therefore, I think this is --

21 JUDGE STIRMER: Right, and I'll accept that  
22 stipulation. I --

23 MR. DUNNE: Your Honor --

24 JUDGE STIRMER: -- might note that for the  
25 record.

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 MR. DUNNE: Let me note -- I noticed the Mass  
2 Media Bureau is offering Mr. Ramage's report in, in  
3 evidence. I'm not going to object to that. But one of  
4 the things he says is, in the report, is that there's  
5 no proof for the antenna, as required by Commission  
6 rules, and that -- this particular paragraph is direct-  
7 ly responsive to Mr. Ramage's statement about there's  
8 no proof of the an-- they have no proof of the antenna.  
9 They didn't do any proof on the antenna. And the  
10 answer is: we didn't need to because it has exactly  
11 the same technical characteristics. That has, that has  
12 nothing to do with the stipulation. It basically says  
13 that the, the installation of the 7-bay antenna did not  
14 need prior FCC approval.

15 JUDGE STIRMER: I'll overrule the objection.  
16 It appears to be relevant to some of the engineering  
17 questions involved in this case.

18 MS. LADEN: At the bottom of page 7, "We were  
19 told by Shively and Shively's engineers that the reduc-  
20 tion of the RF directed toward the ground should also  
21 have an impact in reducing the station's blanketing  
22 problems." I think, I think that's hearsay, Your  
23 Honor.

24 JUDGE STIRMER: Well, I'll receive it for the  
25 state of mind of the witness. I'm not accepting it for

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 the truth of the matters asserted, that it in fact  
2 reduced --

3 MR. DUNNE: State of mind is --

4 JUDGE STIRMER: -- the station's blanket-  
5 ing --

6 MR. DUNNE: -- fine, Your Honor.

7 JUDGE STIRMER: -- problem.

8 MS. LADEN: At the last sentence in paragraph  
9 11, I think it's irrelevant and it's -- I --

10 JUDGE STIRMER: The last sentence in para-  
11 graph 11?

12 MS. LADEN: That's correct, Your Honor.

13 JUDGE STIRMER: I'll strike that.

14 MS. LADEN: In the middle of paragraph 12,  
15 "Although I had been told by our consulting engineer  
16 that we didn't need to worry about restoring Channel  
17 6." If it comes in for state of mind, Your Honor, we  
18 would have no objection, but if it is for the truth of  
19 the statement therein --

20 MR. DUNNE: Your Honor, may I make a point on  
21 this, this thing here, the whole thing about Channel 6?  
22 The Commission said in the designation order that  
23 Channel 6 has got to be cured. Okay?

24 JUDGE STIRMER: Well, the --

25 MR. DUNNE: And that -- we, we can't fight

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Court Reporting Depositions  
D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 that. I mean, that -- we have to accept that. We  
2 can't argue with that. But we can establish the state  
3 of mind of these people, who were under the impression  
4 for many, many months and years from all sorts of  
5 people that they didn't have to cure Channel 6.

6 JUDGE STIRMER: Well, let me ask you this.  
7 So, what is your point? I mean, the Bureau has no  
8 objection for the acceptance of this statement for the  
9 truth -- for the state of mind of the witness, namely  
10 Mr. Stewart.

11 MR. DUNNE: But, Your Honor, I just wanted to  
12 make that, that point --

13 JUDGE STIRMER: All right.

14 MR. DUNNE: -- generally --

15 JUDGE STIRMER: That's -- all right. As a  
16 general matter, let me ask whether or not there are any  
17 stations in Poplar Bluff around the surrounding area  
18 that place a grade B signal over Poplar Bluff?

19 MR. DUNNE: Yes, Your Honor.

20 JUDGE STIRMER: There are? How many sta-  
21 tions?

22 MR. DUNNE: Three, I think. 15, 12, and 8.

23 JUDGE STIRMER: 15, 12, and 8.

24 MR. DUNNE: 15, 15 is -- the transmitter site  
25 is only about two miles from the Poplar -- from the

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 KOKS transmitter site.

2 JUDGE STIRMER: And then there's a Jonesboro  
3 station?

4 MR. DUNNE: The Jonesboro station, and it's  
5 almost to the end of the grade B contour, but it is, is  
6 within the grade B contour. And, similarly, the  
7 Channel 12, which I think was from Cape Girardeau.

8 JUDGE STIRMER: Okay.

9 MR. DUNNE: And, also, was within the grade B  
10 contour, although it's the very edge of the grade B  
11 contour.

12 JUDGE STIRMER: Okay. All right. I'll  
13 receive that for the state of mind. That's the sec--  
14 the sentence, "Although I had been told by our consult-  
15 ing engineer that we didn't need to worry about restor-  
16 ing Channel 6."

17 MS. LADEN: At the top of page 10, it begins.  
18 "Mrs. Smith was constantly asking Mr. Lampe questions"  
19 and ends with the phrase, "which was to help her."  
20 It's hearsay and we -- and I also object because it's  
21 irrelevant.

22 MR. DUNNE: It's not hearsay, Your Honor, to  
23 report his observations of what happened and his im-  
24 pressions of what, what went on. And since the issue  
25 was whether KOKS, you know, solve these people's prob-

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 | lems, it's relevant, their, their behavior toward KOKS  
2 | personnel.

3 | JUDGE STIRMER: I'll overrule the objection.

4 | MS. LADEN: At the middle of paragraph 17 on  
5 | page 11. There are several statements here that are  
6 | conclusory, that are opinions. It says, "He kept  
7 | saying that the reception was no better, which was  
8 | ridiculous, and that we were destroying the reception  
9 | on his tv set, which was more ridiculous." And then,  
10 | later, "It became clear that we weren't going to make  
11 | Mr. Garrison happy no matter what we did."

12 | JUDGE STIRMER: I'll overrule the objection.  
13 | That's their testimony as to what their experience was  
14 | with this particular individual when they attempted to  
15 | assist him in clearing up his reception problems.

16 | MS. LADEN: At the bottom of page 11, it  
17 | begins at the very end, "Although there was no KOKS  
18 | interference..." I don't think the witness is compe-  
19 | tent to testify as to that.

20 | JUDGE STIRMER: I'm going to strike that  
21 | phrase.

22 | MR. DUNNE: Your Honor, if I can be heard on  
23 | that. This is a gentleman who was at a certain number  
24 | of houses as an observer that watched Mr. Lampe do  
25 | things and repair sets, and in certain instances in-

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D.C. Area 261-1902  
Balt. & Annap. 974-0947

1 | stall filters himself earlier in the process. I think,  
2 | you know, he can be cross-examined on what KOKS inter-  
3 | ference looked like. But if anybody had an opportunity  
4 | to observe KOKS interference as opposed to any other  
5 | interference or poor reception, it would have been Mr.  
6 | Stewart. He's entitled to form an opinion on what's  
7 | KOKS interference or not. I mean, he's not required  
8 | to, you know, come to the conclusion that every,  
9 | every --

10 |               JUDGE STIRMER: It's a conclusory statement,  
11 | Mr. Dunne. I mean, he doesn't tell us what the basis  
12 | of it is.

13 |               MS. LADEN: At the bottom of page 12, it  
14 | says, "I do remember not leaving Mrs. Christian two  
15 | extra filters when she had a booster which made her  
16 | exempt anyway." I believe that's a conclusion. I  
17 | don't believe this witness is competent to determine  
18 | that Mrs. Christian was exempt because she had a boos-  
19 | ter. And if it's, if it's background for the state-  
20 | ment, that's -- or the state of mind, I have no objec-  
21 | tion.

22 |               JUDGE STIRMER: Is that the purpose of this,  
23 | to show --

24 |               MR. DUNNE: Your Honor --

25 |               JUDGE STIRMER: -- any rules --

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D.C. Area 261-1902  
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